



WEB COPY

Contempt Petition No.774 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Contempt Petition No.774 of 2021

1. V.Sugumaran,
No.2/4-A, Jayaraman Street,
Ayyavoo Colony, Aminjikarai,
Chennai – 600 029

2. N.Krishnamurthy,
C-16, F-1, Manikandan Flats,
5th Street, Lakshmi Nagar,
Nanganallur, Chennai – 600 061

3. S.Mohan,
31, 2nd Floor, Mikal Garden,
Ramapuram, Chennai – 600 089

4. R.Nagarathinam,
32, Palayakara Cross Street,
Vibha Flats, kodambakkam,
Chennai – 24

5. K.Sridharan,
No.13, Natarjan Street,
Royal Stay Apartment,
Tambaram Sanitorium,
Chennai – 600 047

.. Petitioners

Vs

1. U.Uma Devi
Additional Commissioner of Labour

<https://hcservices.ecourts.gov.in/hcservices/>



(Appellate Authority under
Payment of Gratuity Act)

6th Floor, D.M.S.Complex
Chennai - 600 006.

2. V.Rameshkumar

Deputy Commissioner of Labour
Office of the Deputy Commissioner of Labour-II
II Floor, D.M.S.Complex
Chennai - 600 006.

.. Respondents

Prayer: Petition under Section 11 of the Contempt of Courts Act to punish the respondents for committing contempt of court by willfully disobeying the order passed by this Court in W.A.No.378 of 2020, dated 24.7.2020.

For Petitioners : Mr.K.S.Viswanathan

For Respondents : Mr.P.Muthukumar
Counsel for the State

ORDER

(Order of the Court was made by *the Hon'ble Chief Justice*)

The contempt petition may be completely out of place, notwithstanding the apparent prejudice suffered by the petitioners.

2. The matter pertains to the entitlement of the petitioners to receive gratuity. The petitioners obtained an order in their favour from the writ court. From the order dated September 16, 2019 passed on W.P.No.9014 of 2017, W.A.No.378 of 2020 was carried to a Division Bench. The order impugned was not interfered with, but it was noticed by the Division Bench in its order of July 24, 2020 that an appeal filed by the management was



pending. Accordingly, despite not interfering with the order impugned in the relevant appeal, the Division Bench directed the appellate authority to dispose of the appeal as expeditiously as possible. The issue of maintainability of the appeal was also directed to be gone into.

3. The grievance of the petitioners is that the gratuity due to them has not yet been released. It is the further contention of the petitioners that the management abandoned the earlier appeal and purported to file a fresh appeal. It is the pendency of the subsequent appeal that now stands in the way of the gratuity due to the petitioners being released to them.

4. The petitioners submit that in view of the observations in paragraph 3 of the order of this Court passed on July 24, 2020 and the directions as contained in the fourth paragraph thereof, the respondents must be found to be in contempt as the amount due on account of gratuity has not been tendered to the petitioners or any of them.

5. Paragraphs 3 and 4 of the Division Bench order of July 24, 2020 passed on W.A.No.378 of 2020 need to be noticed:

"3. Having heard the learned counsel for the appellant and the learned counsel for the contesting respondents/caveators, we find that the statutory appeal appears to have been preferred way back in the year 2016/2017. The said appeal is stated to be pending. The



learned Single Judge has recorded that there is no such provision under the The Payment of Gratuity Act, 1972 for entertaining an application for waiver. Learned counsel for the appellant is also not able to point out any such provision, under which an application is maintainable, under the statute for which, a mandamus can be issued by this Court to decide such an application.

"4. Consequently, we do not find any of the grounds raised by the appellant to be sufficient to interfere in the matter, but in view of the fact that the appeal has been filed and the same is pending, we direct the Appellate Authority to pass orders on the appeal as expeditiously as possible preferably, within three months from today. The question of maintainability of the appeal may also be looked into by the Appellate authority."

6. It is evident that paragraph 3 of the relevant order merely recorded the rival submission of the parties and contained no direction, of which contempt may be alleged. At paragraph 4 of the relevant order, the appeal was virtually dismissed by not interfering with the impugned order, but the direction that was issued was for the expeditious disposal of the appeal that had been preferred by the management. There is no positive mandate for the payment of any amount due and, at any rate, the tenor of the order is such that it is clear that the appeal preferred by the management had to be



disposed of before the payment could be made. To an extent, the order implies that the payment claimed by the petitioners and whatever may have been found in favour of the petitioners in the order of September 16, 2019 on W.P.No.9014 of 2017, would be subject to the outcome of the management's appeal.

7. While a contempt petition is an equitable forum of execution, particularly of an order passed in proceedings under Article 226 of the Constitution, the tests in this jurisdiction are stricter as contempt proceedings are quasi-criminal in nature. If there is a possible interpretation of the relevant order, even a strained interpretation thereof may not amount to contempt as the necessary ingredients for an act of contempt are the willful and deliberate disobedience of an order.

8. In the light of the above, notwithstanding the rights of the petitioners herein, no order may be made in this quasi-criminal jurisdiction upon holding that the order dated July 24, 2020 has been deliberately or willfully disobeyed by the alleged contemnors.

9. Accordingly, Contempt Petition No.774 of 2021 is disposed of by leaving the petitioners free to implement the order dated September 16, 2019, as affirmed by the order dated July 24, 2020, before any appropriate available forum. Nothing in this order should be seen to adversely affect or



prejudice the rights of the petitioners to enforce the relevant order.

WEB COPY

10. It is also recorded that it is the petitioners' contention that the original appeal filed by the management was not maintainable and the subsequent appeal which has been filed is barred by limitation and otherwise not permissible. It will be open to the petitioners to canvass such grounds before the forum in seisin of the appeal or appeals.

11. In the status report filed by the alleged contemnors, it has been indicated that the management's appeal pending before the appellate forum would be disposed of within three months. The alleged contemnors are requested to take up the relevant matter as expeditiously as possible and, in the event the appeal or appeals are not maintainable, allow the petitioners herein to enjoy their entitlement without further delay.

There will be no order as to costs.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

sasi

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of

the Orders/Judgments/Decrees in this format.



Gs/26/07/2021

Contempt Petition No.774 of 2021

WEB COPY To

1. The Additional Commissioner of Labour
(Appellate Authority under
Payment of Gratuity Act)
6th Floor, D.M.S.Complex
Chennai - 600 006.
2. The Deputy Commissioner of Labour
Office of the Deputy Commissioner of Labour-II
II Floor, D.M.S.Complex
Chennai - 600 006.